

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

ANDREW L. CHICARELLI,

Petitioner,

v.

//

CIVIL ACTION NO. 1:12CV146
(Judge Keeley)

MARION COUNTY,
DAVID R. JANES, and
GEORGE TRENT,

Respondents.

ORDER ADOPTING REPORT AND RECOMMENDATION

On September 17, 2012, the pro se plaintiff, Andrew Chicarelli ("Chicarelli") filed suit against Marion County, West Virginia, Judge David Janes, and Warden George Trent, pursuant to 42 U.S.C. § 1983. (Dkt. Nos. 1, 7). On October 26, 2012, Chicarelli moved for an injunction and a hearing. (Dkt. No. 13). The Court referred this matter to United States Magistrate Judge John S. Kaul for initial screening and a report and recommendation in accordance with LR PL P 2. On March 11, 2013, Magistrate Judge Kaul issued an Opinion and Report and Recommendation ("R&R"), in which he recommended that Chicarelli's § 1983 suit be denied and dismissed with prejudice. (Dkt. No. 25). The magistrate judge determined that Chicarelli's complaint had no chance for success because the defendants were either immune from a § 1983 claim, are not subject to suit under § 1983, or a § 1983 claim is otherwise barred on the facts presented in Chicarelli's complaint.

ORDER ADOPTING REPORT AND RECOMMENDATION

The R&R also specifically warned Chicarelli that his failure to object to the recommendation would result in the waiver of any appellate rights he might otherwise have on this issue. He did not file any objections.* Consequently, finding no clear error, the Court **ADOPTS** the Report and Recommendation insofar as it orders dismissal of Chicarelli's claims (dkt. no. 25) and **ORDERS** that this case be **DISMISSED WITHOUT PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

Pursuant to Fed. R. Civ. P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of both orders to counsel of record and to the pro se petitioner, certified mail, return receipt requested.

Dated: April 29, 2013.

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE

* The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).